

ISSUE DATE: September 22, 1995

DOCKET NO. G-008/M-95-292

ORDER ACCEPTING MANUFACTURED GAS PLANT CLEANUP COST REPORT WITH
MODIFICATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs
Tom Burton
Marshall Johnson
Dee Knaak
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Request of Minnegasco for
Approval of Its Annual Manufactured Gas
Plant Update Compliance Filing

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PROCEDURAL HISTORY

On May 3, 1993, the Commission issued its FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER in Minnegasco's 1993 general rate case, Docket No. G-008/GR-92-400.¹ In that Order the Commission directed Minnegasco to submit the following filing regarding the Company's manufactured gas plant (MGP) cleanup costs:

Minnegasco shall file on an annual basis the amount of its expenditures for the year and its cumulative expenditures to date for MGP costs. The annual reporting of these costs shall explain and show the types of costs that were incurred and what monies were recovered from insurance companies and other parties. This information shall be filed by April 1st of each year.

At Ordering Paragraph Nos. 1 and 10 of the May 3, 1993, Order, the Commission directed Minnegasco "to provide further definition of [the MGP] costs, including the breakdown of costs that would be internal, external, legal, consulting, contracting, other, and regulatory."

On November 24, 1993, the Commission issued its ORDER ACCEPTING COMPLIANCE FILINGS AND REQUIRING ADDITIONAL FILINGS in the same rate case docket. In that Order the Commission provided Minnegasco with further detail regarding its annual MGP cleanup cost filings:

[W]ith its first annual report due April 1, 1994, Minnegasco shall prepare a schedule

¹ In the Matter of the Application of Minnegasco, a Division of Arkla, Inc., for Authority to Increase Its Rates for Natural Gas Service in Minnesota

detailing planned future activities for insurance and third party recovery of costs extending in time to when Minnegasco expects all remediation to be completed, suits resolved, and all cost recovery efforts completed.

On April 10, 1995, Minnegasco submitted its annual MGP compliance filing in the current docket.

On May 24, 1995, the Department of Public Service (the Department) filed comments recommending that the Commission accept the Company's annual filing.

On August 24, 1995, Minnegasco's annual MGP compliance filing came before the Commission for consideration.

FINDINGS AND CONCLUSIONS

I. MINNEGASCO'S PETITION

Minnegasco's petition included the following chart listing 1994 MGP cleanup expenses:

EXTERNAL CONSULTING	\$ 410,000
EXTERNAL CONTRACTING	1,660,000
EXTERNAL OTHER	120,000
EXTERNAL LEGAL	810,000
REGULATORY COSTS	0
TOTAL 1994	\$ 3,010,000

Minnegasco reported its expenses on the cash basis. The Company separately reported \$530,000 in MGP costs accrued in 1994, but not actually paid until 1995.

Minnegasco proposed a new reporting format, which would provide a cost breakdown by site/project, for future MGP compliance filings. Minnegasco stated that this format would facilitate both its internal accounting and insurance recovery activities.

In its report, Minnegasco provided an update on ongoing insurance and third party recovery efforts. The report included details of current litigation, successful insurance recoveries, and projected timelines and cost estimates for future efforts.

Minnegasco stated that it did not include a portion of its 1994 insurance recoveries in its MGP deferred credit account, because the Company believed that it should be able to offset this amount against 1991 outside legal costs which it was not allowed to defer. The Company

explained that the Commission had denied Minnegasco's request to defer 1991 MGP costs in a 1992 decision, although the Commission did allow deferral of costs from January 1, 1992, forward. Because it was not allowed to defer the 1991 costs for later rate case consideration, Minnegasco believed that it should be able to offset these 1991 costs against its 1994 insurance recovery of 1991 cleanup costs.

II. COMMISSION ACTION

The Commission finds that Minnegasco has provided the information on MGP cleanup cost recovery required under the Commission's May 3 and November 24, 1993, Orders.

Minnegasco has filed extensive information regarding past and projected litigation costs, indicating that these costs have been and will continue to be heavy. The Commission agrees with the Department that it is appropriate for Minnegasco to continue to defer its litigation costs incurred in recovery efforts. Ultimately, the prudence and reasonableness of the Company's litigation costs, as well as the rest of its MGP cleanup costs, will be scrutinized by the Commission in the Company's next general rate case. Any recovery of the costs will depend upon the Commission's determination at that time.

The Commission particularly considered three issues arising from the Company's annual MGP cleanup cost report: the proposed format revision, the Company's accounting method, and the offset of a portion of the recovery against 1991 costs. These issues will be discussed in turn.

A. The Company's Proposed Format Revision

In its petition Minnegasco proposed modifying its MGP cleanup cost reporting format to aggregate all costs by site/project. Commission Staff did not believe that this would provide sufficient detail for review, but suggested that the Company might combine its current "external consulting" and "external contracting" categories and eliminate the "regulatory costs" category. At the August 24 meeting, the Company stated that this revision would sufficiently satisfy its reporting and internal accounting concerns.

The Commission will allow Minnegasco to combine its "external consulting" and "contracting" categories and eliminate the "regulatory costs" category in its annual filing of MGP cleanup costs.

B. Accrual Basis Reporting

Minnegasco filed its 1994 MGP cleanup cost filing on the cash basis. The Commission will require Minnegasco to file future annual MGP filings on the accrual basis, in order that this cost filing will be consistent with the Company's financial reporting and rate filings.

At the August 24 meeting, Minnegasco indicated that reporting MGP costs on the accrual basis would not be onerous or inappropriate.

C. The Company's Proposed Offset Against 1991 Costs

Minnegasco proposed offsetting a portion of its current insurance recovery of 1991 costs by its non-deferred MGP cleanup costs, thereby reducing its deferred credit amount.

The Commission does not find Minnegasco's offset proposal acceptable. Such an offset would in effect rescind the Commission's 1992 decision not to allow deferral of 1991 costs for future rate consideration. The Company has not pointed to anything in the 1992 Order or later circumstances which would justify such a reversal.

In its August 11, 1992, ORDER ALLOWING DEFERRED ACCOUNTING TREATMENT AND REQUIRING INFORMATION, the Commission partially denied Minnegasco's December, 1991, petition for deferred accounting of MGP costs. Although the Commission allowed the Company to defer MGP costs beginning in January, 1992, the Commission denied deferral of 1991 costs. At p. 8 of the August 11, 1992, Order, the Commission explained its treatment of 1991 costs:

Minnegasco recorded its 1991 MGP costs to Account 186-Miscellaneous Deferred Debits before filing a petition for approval of this deferred treatment. To approve the Company's untimely request, the Commission would have to grant exceptions to two provisions of the system of accounts. First, as demonstrated previously, the Commission would have to grant an exception to the limitations placed on the kinds of debits that may be booked to Account 186. 18 CFR 201 (186). Second, the Commission would have to waive the requirement that a utility request permission before booking costs to an account that, by its specific terms, was not designed for those costs. Minn. Rules, Part 7825.0300, subp. 2.

The Commission finds that Minnegasco has not shown good cause to waive either requirement with respect to its 1991 MGP costs[.]

At p. 11 of the August 11, 1992, Order, the Commission stated further:

In these circumstances, the Commission finds that it would be inappropriate to approve Minnegasco's deferred treatment of its 1991 MGP costs. Accordingly, the Commission will disapprove deferral of the Company's 1991 MGP costs and will require the Company to report appropriate adjusting entries within 60 days of this Order.

Thus, the Commission stated unequivocally in its 1992 Order that Minnegasco did not qualify for deferral of its 1991 MGP cleanup costs. This decision meant that the costs were not eligible for future consideration of recovery. The Commission has not revised its decision since that time. The Commission will not allow Minnegasco to recover the 1991 costs by offsetting them against its current insurance recovery of 1991 costs.

ORDER

1. The Commission accepts Minnegasco's 1994 MGP compliance filing with the following modification: Minnegasco's proposal to set the non-deferred 1991 MGP costs against the current insurance recovery of 1991 costs is denied. Minnegasco shall adjust the amount of its deferred MGP credit accordingly.
2. Minnegasco may modify its existing reporting formula in future MGP reports by combining the categories for "external consulting" and "external contracting" and by eliminating the "regulatory costs" category.
3. Minnegasco shall submit future annual MGP cleanup reports on the accrual basis.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)